

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

FILED
MAR 17 2008
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

EFRAIN CASTILLO-CHUN
 a/k/a EFRAIN CASTILLO

(Name and Address of Defendant)

Venue: SAN FRANCISCO

CRIMINAL COMPLAINT

3 08 70149

CASE NUMBER:

JCS

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about March 12, 2008, in San Francisco County, in the Northern District of California, the defendant, an alien, having been removed, excluded, and deported from the United States, was found in the United States without having obtained the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission into the United States, in violation of Title 8 United States Code, Section 1326, Illegal Reentry After Deportation or Removal.

I further state that I am a Special Agent and that this complaint is based on the following facts:

See attached Affidavit in Support of Criminal Complaint

Maximum Penalties:

Title 8 USC Section 1326:

20 years of imprisonment; \$250,000 fine; 3 year supervised release; and \$100 special assessment fee

APPROVED AS TO FORM:



AUSA OWENS

Continued on the attached sheet and made a part hereof: Yes No

Warrant of Arrest Requested: Yes No

Bail Amount: No Bail



Signature of Complainant, Monica Nelson

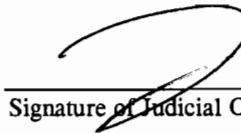
Sworn to before me and subscribed in my presence,

March 17, 2008
Date

at San Francisco, California
City and State

The Hon. Joseph C. Spero
United States Magistrate Judge

Name & Title of Judicial Officer



Signature of Judicial Officer

UNITED STATES DISTRICT COURT)
)
 ss. AFFIDAVIT
NORTHERN DISTRICT OF CALIFORNIA)

I, Monica Nelson, Special Agent, United States Department of Homeland Security (“DHS”), being duly sworn, depose and state:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. This affidavit is submitted in support of a criminal complaint against Efrain CASTILLO-Chun, a/k/a Efrain CASTILLO (“CASTILLO”), for violating 8 U.S.C. § 1326, Illegal Reentry After Deportation or Removal. The facts set forth in this Affidavit are based on my review of CASTILLO’S official Alien Registration file, my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all facts related to CASTILLO that I know.

II. AGENT’S BACKGROUND

2. I am a Special Agent with the United States Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”). I am currently assigned to the Cyber Crimes/Predator Unit of the San Francisco District Office, Investigations Branch. I have been employed in this capacity for approximately fourteen (14) months.

III. APPLICABLE LAW

3. Title 8 U.S.C. § 1326 provides criminal penalties for “any alien who . . . has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien’s reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act”

IV. FACTS ESTABLISHING PROBABLE CAUSE

4. CASTILLO is a thirty-two (32) year-old male, native and citizen of Guatemala, who last entered the United States illegally on or after May 13, 1996, by crossing the international border at or near San Ysidro, California, in an unknown manner, without first having obtained the consent of the Attorney General of the United States or the U.S. Secretary of Homeland Security.

5. CASTILLO’s official Alien Registration File contains one (1) executed Warrant of Deportation. The defendant was arrested and deported from the United States to Guatemala, at

Los Angeles, California, on or about May 13, 1996.

6. On or about July 16, 2007, CASTILLO's presence in the United States became known to ICE pursuant to a check of the California Department of Justice, Megan's Law Website.

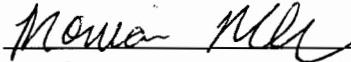
7. On March 13, 2008, I interviewed the defendant at the ICE San Francisco District Office. CASTILLO provided a sworn statement in which he admitted that he was a citizen and national of Guatemala, and that he had been previously deported to Guatemala.

8. On March 14, 2008, the Federal Bureau of Investigation (FBI) Special Processing Center confirmed that the fingerprints dated March 21, 1996, the fingerprints from the warrant for arrest dated April 15, 1996, the fingerprints from booking dating March 12, 2008, the fingerprints from a sworn statement dated March 13, 2008, and the prints on the Warrant of Deportation dated May 13, 1996, are identical to each other and those in CASTILLO's FBI file. The fingerprint examiner positively identified the fingerprints as belonging to the same CASTILLO who had previously been removed from the United States as referenced above in paragraphs 4 and 5.

9. There is no indication in the official files of the United States Department of Homeland Security that CASTILLO ever applied for or obtained the permission of the United States Attorney General or the Secretary of Homeland Security to reenter the United States.

V. CONCLUSION

10. Based upon the facts described above, I believe that there is probable cause that the defendant, CASTILLO having previously been deported from the United States, has been found in the United States without the required permission, in violation of Title 8, United States Code, Section 1326.


Monica Nelson
Special Agent
U.S. Department of Homeland Security
Immigration and Customs Enforcement
San Francisco, California

Subscribed and sworn to before me this 17 day of March 2008 at San Francisco, California.


Honorable Joseph C. Spero
United States Magistrate Judge
Northern District of California
San Francisco, California